

Dear Chairman Martin:

As the Executive Director of the Navajo Nation Telecommunications Regulatory Commission, I write to submit comments on behalf of the NNTRC regarding the FCC's biennial review of telecommunications regulations, undertaken pursuant to 47 U.S.C. § 161. It is the NNTRC's understanding that this review is being performed in order to "determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between the providers. . . ."

Perhaps unlike other tribal communities and reservations where a tribally owned telecom entity is the primary service provider, the NNTRC believes that marketplace competition on the Navajo Nation is a desirable regulatory goal and should be promoted. The Navajo Nation is currently experiencing a paucity of competition, which negatively impacts services not only to the Navajo People, but also to surrounding non-Indian communities. The Navajo Nation thus seeks the FCC's assistance in addressing this situation, in accordance with the FCC's government-to-government policy of June 23, 2000.

Although these comments may not, on their face, pertain directly to competition issues, the NNTRC believes that all of these recommendations, if the FCC were to adopt them, would do much to create and enhance conditions that would foster competition on the Navajo Nation. The NNTRC's comments are as follows:

1. Wireless Telecommunications Bureau – Docket No. 06-156 - Part 1. Licensing boundaries should be contiguous with reservation boundaries for on-reservation projects or providers.
2. Wireline Competition Bureau – Docket No. 06-157 – Part 52. Tribal reservations should be

designated a local calling area, so calls within reservation boundaries are not considered long distance.

3. Wireless Telecommunications Bureau – Docket No. 06-156 – Part 1. Tribal land bidding credits should be made available to existing license and to telcos who have entered into tribal land partitioning agreements with other telcos.

4. Wireline Competition Bureau – Docket No. 06-157 – Part 54. Rules regarding ETC designation by states or the FCC should be explicitly amended to require tribal designation of ETCs prior to FCC treatment of telcos as an ETC.

5. Wireline Competition Bureau – Docket No. 06-157 – Part 36, 54. Rules should be amended to release tribes from state policies regarding E-Rate funding for libraries. The FCC Office of Intergovernmental Affairs should work with the WCB in assisting tribes with developing their own library requirements and policies.

6. Wireline Competition Bureau – Docket No. 06-157 – Part 36, 54. Formulas used to calculate the discount rate for E-Rate funding should be modified to allow the use of data from free and reduced price lunch programs for school districts that are wholly or partially within tribal reservations.

7. Wireline Competition Bureau – Docket No. 06-157 – Part 36, 54. Regulations should allow the use of tribal procurement policies and tribal contract forms when E-Rate funds are used to purchase telecom services on tribal lands. E-Rate funds should be permitted for telecommunications/broadband infrastructure build out.

8. Wireless Telecommunications Bureau – Docket No. 06-156 – Part 1. Programs for federal subsidies should be modified to encourage

terrestrial wireless projects. Like many other tribal reservations, the large land area and rural location of the Navajo Nation makes terrestrial wireless projects the most cost-effective and efficient type of service for reservation residents. A long term solution should be broadband deployment (fiber in the ground) as the most preferred ultimate solution.

9. Wireless Telecommunications Bureau – Docket No. 06-156 – Parts 20, 22, 24, 27. Many on-reservation areas have overloaded circuits during times of high usage of cell phones. This results from wireless companies using existing land line circuits and installing additional infrastructure, without the incumbent landline company providing additional capacity. The overload will be exacerbated with the commencement of VOIP projects. This problem could be addressed by having the Navajo Nation build its own high-speed fiber network connecting to several points-of-presence and leasing the capacity out to all providers. Federal funds should be made available for the costs of this network. Alternatively, either the incumbent company or the incoming telcos, or both, should pay for points-of-presence facilities, and federal subsidies should reimburse these costs.

10. Wireline Competition Bureau – Docket No. 06-157 – Parts 51, 54, 59, 63. Federal subsidies should require telcos with on-reservation projects to submit a reinvestment plan for building additional infrastructure (in addition to point-of-presence facilities) on tribal lands within a certain timeframe, in order to better allow future expansion of services, by the same carrier or others who come in, to other reservation areas that are still not being served.

11. Wireline Competition Bureau – Docket No.

06-157 – Part 54. FCC should eliminate or prohibit construction and installation charges for land line telephones on the reservation. Currently, the Universal Service Fund reimbursement scheme is 75% state and 25% federal. For on-reservation projects, the federal government should cover 100% of the reimbursement.

12. Wireline Competition Bureau – Docket No. 06-157 – Part 36. FCC should undertake appropriate studies to look at basing Universal Service Fund fees on tribal land areas, and not just state lands. The FCC Office of Intergovernmental Affairs should work with the WCB in assisting tribes with developing and administering their own universal services plan and fund, with USF monies being placed into escrow accounts as used for on-reservation services.

13. Wireless Telecommunications Bureau – Docket No. 06-156 – Part 17. FCC should modify or waive tower power limitations for on-reservation projects, so fewer towers need be built on tribal lands to serve the same area as lower power facilities.

14. Wireline Competition Bureau – Docket No. 06-157 – Parts 1, 54. Notification of FCC action to tribes. Currently tribes are often unaware of on reservation telecos selling or changing services in their user area. We recommend that the FCC place a Native American notification requirement on all of their application forms. Direct notification and consultation should be given to tribes located in the service area under consideration of new applications. Both the FCC and the company making the application should notify the affected tribes.

15. Wireline Competition Bureau – Docket No. 06-157 – Part 54. Existing build out rules

should focus on rural land area, and should not be based on numbers of people served.

16. Wireline Competition Bureau – Docket No. 06-157 – Part 54. Federal subsidies should require telcos to hire a certain percentage of tribal workers within a certain timeframe, for on-reservation projects, or submit justification why such hiring could not be done. Regulatory incentives are needed to improve the human resources capacity of tribes to maintain telecom networks for reservation residents. Telcos receiving federal monies should provide preferences to tribal and/or Native American owned companies with whom the telcos subcontract for infrastructure build out.

17. International Bureau – Docket No. 06-154 – Part 25. Providers of satellite services (television, internet, telephone) on the reservation should be required to get prior approval from tribal entity as a condition of licensing.

18. Wireless Telecommunications Bureau – Docket No. 06-156 - Part 20. A better incentive for rural roaming must be established. Roaming should be universally mandated for services provided via a federally-subsidized telecom project, and there should be no charge for roaming services to customers utilizing services from these projects. In rural areas such as Indian reservation lands, often only a single service provider is available. In these areas, mandatory roaming and resulting competitive roaming agreements will forestall monopolies, which negatively impact customer pricing and services.

19. Wireless Telecommunications Bureau – Docket No. 06-156 - Part 20. Regulations should be amended to encourage and promote roaming agreements between telcos that use either GSM or

CDMA networks to eliminate the need to carry two or more cell phones across state and tribal boundaries. Rules should require telcos to provide devices equipped with flexible and open technologies that do not allow proprietary equipped communication devices.

20. General Comment: Wireline Competition Bureau – Docket No. 06-157. Wireless Telecommunications Bureau – Docket No. 06-156. The FCC must work with the BIA in modifying the existing regulations under 25 C.F.R. Part 169 and related Parts to streamline the trust land use approval process for on-reservation telecom projects, perhaps eliminating BIA approval for collocations and certain other telecom projects, and explicitly allowing for tribally-issued revocable use permits instead of rights-of-way, where appropriate. The regulations should be modified to facilitate and encourage collocations within existing utility (electric, water, sewer, telephone) rights-of-way on tribal lands.

21. General Comment: Wireline Competition Bureau – Docket No. 06-157. Wireless Telecommunications Bureau – Docket No. 06-156. All telcos and ISPs should implement and coordinate 911/E911 on tribal lands and reservations.

22. General Comment: Wireline Competition Bureau – Docket No. 06-157. Wireless Telecommunications Bureau – Docket No. 06-156. The FCC should work with the USDA to allow broadband telecom development programs such as the “Community Connect” program so that tribes themselves can define what a “community” is. Currently, the program allows only one community to be awarded federal funds. In order for tribes and reservation residents to truly benefit from this program, the entire tribal reservation must be considered a “community.”

Although the NNTRC has submitted these

comments today via electronic filing, the NNTRC is also transmitting via fax this signed letter to the FCC's Liaison to Tribal Governments at the Office of Intergovernmental Affairs. The NNTRC appreciates the opportunity to submit comments and looks forward to working with the appropriate FCC staff in addressing the telecommunications needs on the Navajo Nation by amendment of selected rules and regulations.

Sincerely,

Ernest Franklin, Jr., Executive Director,
Navajo Nation Telecommunications Regulatory
Commission

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